

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.14612 OF 2006

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DATED: 02-03-2007

BETWEEN

Ashok Leyland Finance (a division of IndusInd Bank Ltd.,) (formerly known as Ashok Leyland Finance Ltd.,) a Company incorporated under Companies Act, 1956 having its Registered Officer at 2401, General Thimmaiah Road, Cantonment, Pune having one of its Branches at Minerva Complex, S.D. Road, Secunderabad, rep. By its Authorized Signatory, K. Ravi Shankar.

...PETITIONER

AND

The Station House Officer,
Kukumrapalli Police Station,
Medak District and another.

...RESPONDENTS

ORDER:

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This writ petition has been filed seeking a Writ of Mandamus to declare the action of the first respondent in keeping the vehicle bearing No.AP-11-P-4959 in the first respondent police station without any legal cause and not adhering to the procedure prescribed in Criminal Procedure Code, 1973; as arbitrary and illegal.

2. Learned counsel for the petitioner submits that the petitioner-company deals in advancing loans in order to purchase vehicles.

While so, one B. Atmaram approached the petitioner-company and applied for a loan in order to purchase a car. Consequently, the said Atmaram was granted a loan for an amount of Rs.2,25,000/- after entering the loan

agreement dated 27.11.2004. Accordingly, the said Atmaram purchased Maruti Zen with registration No.AP-11-P-4959 and paid some installments to the petitioner-company totaling to a sum of Rs.49,892/-. While things stood thus, on the intervening night of 14/15.06.2005, the said Atmaram, while going to Karimnagar from Hyderabad in his car, met with an accident and died on the spot.

The first respondent registered a case in Cr.No.63 of 2005 on the file of the Kukunoorpalli Police Station and later investigated the matter and filed a charge sheet on the file of the Judicial Magistrate of First Class, Special Mobile Court, Medak under Section 304-A of the Indian Penal Code, 1860 against one M. Narasaiah and N. Veeresham and the case was numbered as C.C.No.661 of 2005 on the file of the said Court.

3. The learned counsel further submits that the vehicle is registered in the name of the petitioner-company and the said Atmaram is in due a sum of Rs.2,00,318/- on the said vehicle payable to the petitioner company. The said vehicle has been kept in the first respondent police station premises. He further submits that the petitioner-company approached the Motor Vehicle Inspector, Siddipet, Medak District seeking release of the vehicle and the said Inspector addressed a letter dated 28.10.2005 to the first respondent directing him to release the vehicle in favour of the petitioner-company, but the said vehicle has not been released so far.

4. Counter has been filed by the first respondent stating that the petitioner-company did not produce any documents in proof of its claim. Similarly, the wife of the deceased and the younger brother of the deceased also claimed the vehicle but none of them produced any documents entitling them to receive the vehicle. It is stated that the first respondent advised the petitioner-company to produce the hypothecation deed and concerned papers or else to approach the Court seeking appropriate relief for release of the said vehicle.

5. The counter filed by the first respondent did not meet the averments made in the writ affidavit particularly the averments made in Para 7 with regard to the letter addressed to him by the Motor Vehicle Inspector, Siddipet. Though Xerox copies of the relevant documents have been filed before this Court, it is for the petitioner-company to file the relevant hypothecation deed and other concerned documents before the first respondent so as to enable him release the vehicle in its favour.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the first respondent to release the vehicle in favour of the petitioner-company on production of hypothecation deed and other relevant documents and also on filing an undertaking that it would produce the vehicle as and when required. There shall be no order as to costs.

V. ESWARAIAH, J

March 2, 2007
DSK